IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.1585 of 2006

Dr.Murad Dhanjishaw Oomrigar & anr. Petitioners
Vs.
Erach Rutton Viccajee & anr. Respondents

Mr.Navnit Shah i/b M/s.Mulla & Mulla & C.B.C for petitioners.

Mr.A.K.Abhyankar with Mr.N.V.Mhatre for Resp. Nos.1 and 2.

CORAM: B.H.MARLAPALLE,J.

July 26, 2006.

P.C.

. Heard the learned counsel for the petitioners who are the original defendants in Special Civil Suit No.62 of 2002. During the pendency of the said Suit the plaintiff died and, therefore, the suit had abated. Subsequently i.e. after the demise of the plaintiff on 25th June 2004 an application was moved for brining the LRs on record and to set aside the abatement order (Exhibits 45 and 47). On account of delay in moving this application, a separate application at Exhibit 43 was also filed before the trial Court for condonation of delay. All these applications have been allowed by the learned Civil Judge, Senior Division at Panvel vide his order dated 7/12/2005 and hence this petition under Article 227

of the Constitution.

. The learned Judge of the trial Court agreed that there was a delay in submitting an application to set aside the order of abatement as well as to bring the LRs on record but at the same time taking into consideration that the plaintiff and the LRs were residing at Mumbai and so as to get the suit decided on merits as well as to avoid multiciplity of litigation, the trial Court found it fit to condone the delay and allowed both the applications. The view taken by the trial Court cannot be termed as perverse or patently erroneous so as to call for interference.

. The petition is rejected summarily. Trial of the suit is expedited.

(B.H.MARLAPALLE,J.)